



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

PIEDMONT REGIONAL OFFICE
4949-A Cox Road
Glen Allen, Virginia 23060
(804) 527-5020
Fax (804) 527-5106
www.deq.virginia.gov

Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO MR. ALLISON RIDNER

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Mr. Allison Ridner for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order, and the Appendix attached to this Order.
6. "Mr. Ridner" means Mr. Allison Ridner, owner of the property located at 205 Nomini Bay Drive in Westmoreland County.

7. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
8. "NOV" means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Ridner owns property located at 205 Nomini Bay Drive in Westmoreland County (the property). An unnamed tributary to Nomini Creek and adjacent wetlands are located near the back of this property.
2. On February 23, 2005, DEQ received a report from the County of unauthorized clearing, excavating, grading and filling of state waters and wetlands on Mr. Ridner's property.
3. On March 23, 2005, DEQ staff met with the County and performed a site inspection of the property. Staff observed that an unnamed tributary to Nomini Creek and adjacent wetlands at this location had been impacted. All the vegetation, including wetland vegetation, bordering the tributary had been cleared, excavated, the area graded, drain pipes installed in the tributary to pipe the tributary underground, and fill material, consisting of dirt and gravel, had been placed over the pipes to fill in the channel to bring the property to a level grade. These activities had impacted approximately 278 linear feet at the back of Mr. Ridner's property. Fill material had washed downstream and impacted an additional 65 linear feet of the tributary. Impacts totaled 343 linear feet of streambed and were calculated to have impacted over 1/10th of an acre of wetlands.
4. On June 2, 2005, DEQ issued a NOV to Mr. Ridner citing unauthorized clearing, excavating, grading, and filling activities that impacted 343 linear feet of state waters.
5. On June 17, 2005, a meeting was held between DEQ staff and Mr. Ridner to discuss resolution of the unauthorized impacts to state waters, including wetlands. In order to come into compliance, Mr. Ridner decided to remove the drain pipe and fill material from the stream channel and to restore the impacted wetlands. Mr. Ridner agreed to submit a corrective action plan and schedule to restore his property; and he also stated that he would hire a consultant to help with the restoration.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Mr. Ridner and Mr. Ridner agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Mr. Ridner, and Mr. Ridner voluntarily agrees, to pay a civil charge of \$1,050 within 30 days of the effective date of the Order in settlement of the

violations cited in this Order. The payment shall note that it is being made pursuant to this order. Payment shall be by check, certified check, money order, or cashiers check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Mr. Ridner, for good cause shown by Mr. Ridner, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, Mr. Ridner admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Mr. Ridner consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. Ridner declares he has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Mr. Ridner to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mr. Ridner shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Mr. Ridner shall show that such circumstances were beyond their control and not due to a lack of good faith or diligence on his part. Mr. Ridner shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.


9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mr. Ridner. Notwithstanding the foregoing, Mr. Ridner agrees to be bound by any compliance date which precedes the effective date of this Order.
9. This Order shall continue in effect until:
 - a. Mr. Ridner petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Mr. Ridner.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Ridner from his obligation to comply with any statute, regulation,

permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By his signature below, Mr. Ridner voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of September 29 2005.


Robert G. Burnley, Director
Department of Environmental Quality

Mr. Ridner voluntarily agree to the issuance of this Order.

By: Allan Ridner

Date: 8-1-05

Commonwealth of Virginia

City/County of Richmond

The foregoing document was signed and acknowledged before me this 1st day of August, 2005, by Allan Ridner, who is owner of the
(name)
property located at 205 Nomini Bay Drive in Westmoreland County.


Notary Public

My commission expires: 4-30-08

APPENDIX A

Mr. Ridner shall:

1. By September 15, 2005, submit to DEQ for approval a corrective action plan and schedule to restore the unnamed tributary to Nomini Creek and the adjacent wetlands. Upon approval, the corrective action plan and schedule shall become a part of the Appendix A and be incorporated herein by reference.
2. Implement and complete the restoration plan and schedule as approved.
3. Upon completion of the restoration, submit to DEQ photos of the site documenting the restoration.
4. Pursuant to this Order, submit all documentation required by this Consent Special Order to:

Cynthia Akers
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060